

PT 06-34

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

LEADERTREKS, N.F.P.,
Applicant

v.

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

No. 05-PT-0062
(05-22-39)
PIN 05-05-309-012-0000
John E. White,
Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

Appearances: Joseph Fortunato, Fortunato, Farrell, Davenport & Arnold, Ltd., appeared for LeaderTreks, N.F.P.; John Alshuler, Special Assistant Attorney General, appeared for the Illinois Department of Revenue

Synopsis:

This matter arose after LeaderTreks, N.F.P. (LeaderTreks) protested the Illinois Department of Revenue's (Department) denial of its application for a non-homestead property tax exemption for property LeaderTreks owned throughout 2005, and which is situated in DuPage County, Illinois. The issue is whether the property was entitled to the property tax exemption authorized by § 15-40 of the Illinois Property Tax Code (PTC), 35 ILCS 200/15-40.

The hearing was held at the Department's offices in Chicago. LeaderTreks presented documentary evidence as well as the testimony of a witness, Douglas Franklin. I have reviewed that evidence, and I am including in this recommendation findings of fact and conclusions of law. I recommend that the exemption be denied.

Findings of Fact:

1. LeaderTreks is the amended name of an Illinois non-profit corporation that was previously named Adventures in Student Missions, Inc. (ASM). Applicant Exs. 1 (copy of Bylaws of ASM), 2 (copy of ASM's Articles of Incorporation), 4 (copy of December 23, 2002 resolution of ASM's action by the directors changing corporate name to LeaderTreks), 5 (copy of ASM's completed Illinois Secretary of State (SOS) form NFP-110.30, changing name from ASM to LeaderTreks); Hearing Transcript (Tr.) p. 11.
2. LeaderTreks' Articles of Incorporation provide as follows:

Article Four

Purpose

This Corporation is organized, shall exist and be operated exclusively for religious, charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or any superseding section of Internal Revenue Law.

A. The specific and primary purposes of this corporation are:

1. To minister the Gospel of Jesus Christ within the State of Illinois, throughout the United States of America and around the world as the Lord leads. To provide Gospel Missions training and hands-on ministry experience for Christians.
2. To establish, promote, and support Christian ministries within the state of Illinois, the United States of America and foreign lands; to promote fellowship and means of cooperation between Christians of similar faiths and doctrines, to spread the gospel of Jesus Christ through all lawful means.
3. To promote freedom of worship and liberty of expression within the limits of its own statement of faith and doctrine, among its own ministers and members.
4. To maintain such relations with local, state, federal and foreign governments as may be necessary for the successful accomplishments of the purposes of the organization and for the welfare of the ministers and members thereof.

5. To engage such employees as may be necessary to perform the duties involved in carrying on the Corporation's business.
6. To make Bylaws for the government of the Corporation, not inconsistent with laws of the State of Illinois, the United States, other states or foreign countries wherein the corporation might minister; and to alter, revise and amend the same at will.
7. To receive contributions and to make donations to disperse charitable contributions through, and otherwise aid and support, those organizations qualified for exemption from federal income tax law under Section 501(c)(3) of the Internal Revenue Code of 1986, as now in effect or subsequently amended.

Applicant Ex. 2, pp. 1-2.

3. LeaderTreks's Bylaws provide, in pertinent part:

Article Two

Purposes

Section 1: The specific and primary purposes of this corporation are:

- A. To minister the Gospel of Jesus Christ within the State of Illinois, throughout the United States of America and around the world as the Lord leads. To provide Gospel Missions training and hands-on ministry experience for Christians. More specifically, to plan, organize, and lead short-term mission trips, within the United States and abroad, for high school and college age students.
- B. To promote freedom of worship and liberty of expression within the limits of its own statement of faith and doctrine, among its own ministers and participants.
- C. To provide for the needs of the needy.

Section 2: This corporation is organized to receive and maintain real or personal property, or both, and, subject to the restrictions and limitations hereinafter set forth, to use and apply the whole or any part of the income therefrom and the principal thereof exclusively for charitable, religious, scientific, literary, or educational purposes either directly or by contributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, and Regulations issued

pursuant thereto as they now exist or as they may hereafter be amended.

Article Three

Tenets of Faith and Doctrine

[LeaderTreks] accepts the Holy Bible as the revealed will of God, and all sufficient rule of faith and practice, and for the purpose of maintaining general unity, adopts these Statements of Fundamental Truths and Doctrine.

[LeaderTreks] believes the scriptures are inspired by God, free from error in its [sic] original text, to be used as our guide to faith and life. (2 Timothy 3:16).

[LeaderTreks] believes in God, made of three separate but united personalities in the Faith (John 3:16), the Son (Hebrews 1:3), and the Holy Spirit (John 14:26 & 2 Corinthians 13:14).

[LeaderTreks] believes God created man perfect in His own image (Genesis 1:26), but man sinned, resulting in physical and spiritual death, and that all men are born sinful. (Romans 3:23).

[LeaderTreks] believes Jesus Christ is both God and man, conceived by the Holy Spirit and born of the virgin (Matthew 1:20-22, John 3:16) and was sent to earth by the Father to complete the plan of redemption.

[LeaderTreks] believes Jesus Christ died on the cross, was buried and rose on the third day as a substitutionary payment for the sins of man. Anyone who believes and receives Jesus Christ by faith is born of the Holy Spirit to become a child of God and will have eternal life (John 1:12, John 5:11, 12). Jesus Christ is now in heaven acting as our advocate before the Father (Mark 16:19) and is preparing his eternal kingdom (Hebrews 1:3).

[LeaderTreks] believes in the personal, imminent return of Jesus Christ to this earth. (Revelations 22:20).

[LeaderTreks] believes all men will be judged. Those people that haven't believed by faith in Jesus Christ will be eternally separated from God in hell, and those that have believed will be eternally in God's presence in heaven. (Revelations 20:11-15).

Article Four

Membership

The Corporation shall not have members therefore there shall be no classes of members. All voting rights and management of [LeaderTreks] are reserved in and to the

Board of Directors.

Applicant Ex. 1, pp. 4-5.

4. Douglas Franklin (Franklin) is president of LeaderTreks, and he was previously president of ASM. Tr. pp. 9-12.
5. Franklin is not an ordained minister. Tr. p. 28. Nor is he a pastor or representative of any ecclesiastical or church organization. Tr. pp. 28-29.
6. Franklin had previously served as a youth pastor at three different churches, but did not act for those churches during 2005. Tr. pp. 35-37.
7. LeaderTreks is not a church. Tr. p. 14. No church or ecclesiastical organization was an incorporator of LeaderTreks. Tr. p. 29.
8. LeaderTreks' operations are directed toward providing services to Christian churches and church members that have an interest in fulfilling the Great Commission, which is a biblical injunction, found in Acts 1:8, to go forth and present the good news of Jesus Christ. Applicant Ex. 9 (document titled, Activities of LeaderTreks); *see also* Applicant Ex. 8 (copy of table listing churches and church groups, and the contact person for such entities, that have used LeaderTreks services); Tr. pp. 16, 37-39.
9. LeaderTreks offers to churches and members staff-led mission trips, wilderness trips, field trips, and curriculum development. Applicant Exs. 8-9, Tr. pp. 16, 37-39.
10. LeaderTreks employs staff that lead others on mission trips, field trips and wilderness trips. Tr. pp. 20-23; Applicant Ex. 9, 13, p. 7.
11. During the mission and/or field trips, LeaderTreks provides attendants with

- guidebooks that LeaderTreks has authored and published. Applicant Group Ex. 12 (different booklets created by LeaderTreks); Tr. pp. 15-19.
12. LeaderTreks acquired the property at issue in late November 2004. Applicant Ex. 6 (copy of special warranty deed for property).
 13. LeaderTreks uses the property as its principal office. Department Ex. 2 (copy of Applicant's completed Department Form PTAX-300, Application for Non-homestead Property Tax Exemption – County Board of Review Statement of Facts), p. 1 (Part 3, line 15).
 14. The property is improved with a one-story brick condominium office of approximately 5,705 square feet. Department Ex. 2, p. 1 (Part 3, line 15); Applicant Ex. 11 (photos of property). The property has nine private offices and approximately 6 or 7 cubicles for staff. Tr. p. 19.
 15. LeaderTreks has different departments, and about 25 full-time employees. Tr. pp. 19-20; *see also* Applicant Ex. 13 (copies of LeaderTreks' audited financial statements for year ending September 30, 2004), p. 7 (entries showing aggregate amount expended for salaries and wages).
 16. LeaderTreks' departments include human resources, operations, booking, training, curriculum, which also includes a video area, where DVDs and videos are created to accompany written curriculum materials created by LeaderTreks. Tr. pp. 19-20; *see also* Applicant Group Ex. 12.
 17. Franklin receives an annual salary of \$40,000. Tr. p. 29; *see also* Applicant Ex. 13, p. 7.
 18. LeaderTreks' staff conduct praise and worship (i.e., morning prayer) services

- daily on the property, and occasionally hold bible studies there. Tr. p. 33. The property, however, is not used to conduct regular, public religious worship or ceremonies. *Id.*
19. LeaderTreks' mission trips, field trips, wilderness trips, training sessions, etc., do not take place on the property. *See* Department Ex. 1 (description of use of property).
 20. LeaderTreks provides support to two missionaries, one in Cape Town, South Africa and one in San Jose, Costa Rica. Tr. pp. 31-32; Applicant Ex. 13, p. 7. LeaderTreks provides training and donations to the two missionaries, and facilitates communication to those two individuals and their supporters. Tr. pp. 31-32.
 21. Some of LeaderTreks programs send teams of church and church group volunteers to the missions in South Africa and in Costa Rica. Tr. pp. 31-32.
 22. The DuPage County Board of Review granted LeaderTreks' application for a property tax exemption for the property for 2005. Applicant Ex. 7 (copy of DuPage County's notice to Applicant of its grant of Applicant's exemption request).
 23. The Department denied Applicant's exemption request, because it determined that the property was not in exempt ownership and not in exempt use. Department Ex. 1, p. 1 (Department's Denial of Non-homestead Property Tax Exemption).

Conclusions of Law:

Article IX of the 1970 Illinois Constitution generally subjects all real property to taxation. Eden Retirement Center, Inc. v. Department of Revenue, 213 Ill. 2d 273, 285,

821 N.E.2d 240, 247 (2004). Article IX, § 6 permits the legislature to exempt certain property from taxation based on ownership and/or use. Ill. Const. Art. IX, § 6 (1970). One class of property that the legislature may exempt from taxation is property used exclusively for religious purposes. Ill. Const. Art. IX, § 6 (1970); Eden, 213 Ill. 2d at 286-87, 821 N.E.2d at 248.

Section 15-40 of the PTC provides, in relevant part:

Sec. 15-40. Religious purposes, orphanages, or school and religious purposes.

(a) Property used exclusively for:

(1) religious purposes, or

(2) school and religious purposes, or

(3) orphanages

qualifies for exemption as long as it is not used with a view to profit.

35 ILCS 200/15-40.

The Department denied the exemption after determining that the property was not in exempt use and that LeaderTreks was not an exempt organization. Department Ex. 1. Thus, LeaderTreks has the burden to show that it is organized and operated exclusively for religious purposes, and that it used the property exclusively for religious purposes during 2005. Eden, 213 Ill. 2d at 287, 821 N.E.2d at 248.

Issues and Analysis

The Department argues that LeaderTreks is not organized and operated exclusively for religious purposes, citing People ex rel. McCullough v. Deutsche Evangelisch Lutherische Jehovah Gemeinde Ungeanderter Augsburgische Confession, 249 Ill. 132, 94 N.E. 162 (1911) (hereinafter Deutsche Gemeinde). Tr. p. 44. Deutsche Gemeinde sets forth the Illinois Supreme Court's 1911 interpretation of the phrase "religious purpose" as used in the Illinois 1870 Constitution's provision permitting the

exemption of property used exclusively for religious purposes from taxation. Deutsche Gemeinde, 249 Ill. at 136-37, 94 N.E. at 164 (“As applied to the uses of property, a religious purpose means a use of such property by a religious society or body of persons as a stated place for public worship, Sunday schools, and religious instruction.”). The Department asserts that LeaderTrek’s primary operations do not include worship, and are more like the operations of the taxpayer described in Cook Communications v. Department of Revenue, 345 Ill. App. 3d 753, 803 N.E.2d 524 (2d Dist. 2004).

A case also instructive on the question whether a particular entity is organized and operated exclusively for religious purposes is Scripture Press Foundation v. Annunzio, 414 Ill. 339, 355-56, 111 N.E.2d 519, 527-28 (1953). There, the Illinois Supreme Court was called upon to review a decision by the Illinois Department of Labor that Scripture Press Foundation was not exempt from paying unemployment compensation contributions because it was “a corporation ... organized and operated exclusively for religious ... purposes ...”, pursuant to § 2(f)(6) of Illinois’ Unemployment Compensation Act. *Id.*, at 341, 111 N.E.2d at 521. After summarizing the facts regarding the organization and operation of Scripture Press, the Court ruled as follows:

*** Scripture Press Foundation was incorporated and organized by an individual and his wife, who although Christian persons with a long record of religious service, were neither ordained ministers, pastors, nor representatives of any ecclesiastical or church organization. No church or ecclesiastical organization was an incorporator or a member of the corporation. A study of its charter powers in the light of its actual operation indicates that Scripture Press Foundation was organized for the primary purpose of producing, distributing and selling religious literature and supplies to religious organizations. It is true that the language of its charter powers indicates a purpose for ‘The dissemination of the Gospel, the distribution of the Scriptures, of extracts therefrom, of

devotional and other literature relating thereto, and of helps and supplies for use in Christian activities.’ Such purpose is accomplished only by the distribution and sale of such literature and supplies to religious organizations, which organizations in turn use them in conducting their religious activity. We are of the opinion that under the decisions of the Illinois courts and the language of the Illinois constitution and statute, such activities are secular in nature and not exclusively religious, the same as the maintenance of a parsonage for residential purpose of a pastor or the same as any other commercial service organization furnishing to a religious institution necessary services such as fuel, lights, building material or any other item necessary to its ordinary and customary functioning.

Scripture Press, 414 Ill. at 355-56, 111 N.E.2d at 527-28.

The case that the Department claims guides this matter, Cook Communications, is consistent with the holding in Scripture Press. That matter involved an applicant, Cook Communications Ministries (Cook), whose articles of incorporation provided that its purposes were: “to encourage the acceptance of Jesus and his teachings; to advance Christian education ‘in churches, and Sunday schools, internationally, by Christian literature and literacy’; and to aid the needy and institutions of religious education, either directly or through established charities.” *Id.*, at 755, 803 N.E.2d at 525. Cook earned the vast majority of its income by publishing Christian educational materials and selling them to churches, teachers, and Christian bookstores. *Id.*, at 756, 803 N.E.2d at 526. None of Cook’s income was derived from fees for services. *Id.*, at 757, 803 N.E.2d at 526. Cook distributed materials internationally, with all materials given with no money expected in return. At training sessions, Cook taught people from abroad how to edit, publish, and distribute religious educational materials in their own countries. *Id.*

The court, concluding that Cook was not entitled to the sought-after exemption, wrote:

*** Plaintiff was founded many years ago by a pastor, but there is no evidence that in 1999 it was affiliated with any religious organization or that its officers were members of the clergy. More importantly, the evidence overwhelmingly shows that in 1999, plaintiff directly engaged in little or no specifically religious activity and used its Elgin property for no such purpose. Instead, like the plaintiff in *Scripture Press Foundation*, but unlike those in *Hoffman* and *ETTA*, plaintiff achieved its corporate purpose, advancing Christian education, almost entirely by selling Christian educational materials to organizations that then did the actual teaching. Plaintiff itself did no religious teaching. Moreover, plaintiff received the bulk of its revenues either from such sales or from selling items produced by its for-profit greeting card company. Only a tiny portion of plaintiff's revenues came from contributions, and plaintiff made a profit in one of the two fiscal years that included part of calendar year 1999.

Cook Communications, 345 Ill. App. 3d at 761-62, 803 N.E.2d at 530.

LeaderTreks argues that its activities are not like the applicant's activities in Cook Communications, and are more akin to the activities of the applicant in Evangelical Teacher Training Assoc. v. Novak, 118 Ill. App. 3d 21, 454 N.E.2d 836 (2d Dist. 1983) (hereinafter ETTA). Tr. pp. 40-42. That case involved a property tax exemption request for the administrative offices of Evangelical Teacher Training Assoc. (ETTA), a not-for-profit corporation organized by five bible colleges. ETTA, 118 Ill. App. 3d at 22, 454 N.E.2d at 837. ETTA's purpose was to upgrade Christian education at varied academic levels including seminary studies, adult education, and Sunday school activities. All of its members were approved schools, liberal arts and Bible colleges, seminaries and bible institutes. *Id.* at 22-23, 454 N.E.2d at 837. Two of ETTA's officers lectured at member and other schools regarding Christian education. *Id.* at 23, 454 N.E.2d at 837. ETTA also prepared materials for 14 separate Bible course offerings, including texts, cassette tapes, overhead masters, instructor's guides and lesson plans. *Id.* The course offerings stress

Bible lessons as well as Christian education techniques. *Id.* The materials sold by ETTA were written by faculty at member schools, edited by committee and by ETTA, and then sold by ETTA. *Id.*

The ETTA court concluded that ETTA's offices were entitled to an exemption because ETTA was an exclusively religious organization. Specifically, the court held:

While the County broadly asserts that ETTA's stated purpose to improve Christian education at academic and local levels, is only accomplished through the sale of its religious books and materials to others, who in turn conduct the "religious" oriented activity, the opposite is manifest from the record. The chief officers of ETTA are both ministers and doctors of education. Their activities are primarily directed toward the teaching and demonstration of teacher training techniques, as is disclosed by their exhaustive travel, lecture, and workshop schedule. These travel and speaking activities serve to directly accomplish ETTA's corporate purpose, the promotion of Christian education, in a manner which could not be achieved through the mere sale or distribution of its books and religious materials.

ETTA, 118 Ill. App. 3d at 26, 454 N.E.2d at 839-40.

Perhaps the best way to reconcile ETTA with the earlier decision in Scripture Press and with the later appellate court decision in Cook Communications, is to note that ETTA's incorporators, all bible colleges, were, themselves, exclusively religious and educational institutions, and that the materials that ETTA developed and sold were written by professors and/or instructors at those bible colleges. In this way, it is possible the court viewed ETTA's production and sales operations as though they were merely an extension of the operations of those already-exempt institutions. Cook Communications v. Department of Revenue, 345 Ill. App. 3d at 761, 803 N.E.2d at 530 (referring to ETTA as "a nonprofit association of religious educational institutions [that] promoted Christian

education by sending its officers to lecture at religious colleges, advising religious educators on training seminary students, preparing materials for Bible courses that were written by faculty at member schools, and distributing its publications, often free, to libraries and schools.”). Further, the Cook Communications court noted that ETTA’s “officers were deeply involved with religious teaching.” *Id.*

I now apply the facts of this case to the law encompassed by PTC § 15-40 and the decisions applying and interpreting that provision, and similar ones. LeaderTreks argues that it is wrong for the Department to attempt to characterize it as a mere publication firm, like the applicant in Cook Communications. Tr. pp. 47-48. LeaderTreks stresses that it is not an entity that engaged only in supplying churches with written and audiovisual materials that those churches then use while providing religious education and training to their members. Rather, LeaderTreks says, its primary service is the religious training and instruction that its staff provides during field, wilderness, and mission trips that LeaderTreks plans, organizes and leads. Applicant Exs. 9, 12; Tr. pp. 18-19.

Franklin also testified that LeaderTreks maintains two missionaries, one in South Africa and one on Costa Rica. Tr. pp. 31-32. Providing missionaries was considered indicative of an exclusively religious operation in both Scripture Press and later, in Cook Communications, 345 Ill. App. 3d at 760, 803 N.E.2d at 529. Further, the court in Cook Communications recognized that:

Cases following *Scripture Press Foundation* have adhered to its distinction between nonprofit organizations that engage directly in religious activities, such as worship, missionary work, and religious education, and secular organizations that merely supply religious entities with materials to conduct such activities. ***

Cook Communications, 345 Ill. App. 3d at 760-61, 803 N.E.2d at 529.

LeaderTreks, however, offered no evidence that would lead me to conclude that the work of the two missionaries should be deemed the work of LeaderTreks. For example, Franklin did not testify that Lindsay Henley or Phil Aspergen, the missionaries he said LeaderTreks supported, were LeaderTreks employees. Tr. pp. 31-32. There was certainly no documentary evidence establishing such a fact. Rather, he testified that LeaderTreks provided training, donations and facilitated communication to those two individuals and their supporters. *Id.* Someone that donates money or services to a church or charity performs an act of charity; but the donor does not, thereby, become imbued with the exempt qualities of the institution to which the donation was given. Thus, while I do not doubt that LeaderTreks provides pecuniary and other support to two foreign missions (*see* Applicant Ex. 13, p. 8 (Notes to Financial Statements, note 1 “At September 30, 2004, temporarily restricted net assets of \$64,860 are restricted for various missionaries”)), I cannot conclude that LeaderTreks is, itself, engaged in missionary work.

Similarly, LeaderTreks offered no documentary evidence at all regarding its financial activities for the year at issue. *See* Applicant Ex. 13. The audited financial statements that were admitted at hearing reflect LeaderTreks’ financial activities during the year that ended in September 2004, which was *before* the year at issue. *Id.* The financial records that were introduced showed that, during that prior year, LeaderTreks reported that it received over \$868,000 from program service fees, and slightly less than \$60,000 in contributions. Applicant Ex. 13, p. 4. Its five greatest functional expenditures for that same period included: \$421,141 for mission trips; \$323,518 for salaries and

wages; \$92,917 for wilderness/adventure trips; \$91,187 for marketing expenses; and \$50,456 for professional fees. Applicant Ex. 13, p. 7. But this record contains no documentary evidence to show what LeaderTreks' financial activities were during 2005.

Other points for which no evidence was offered involves the nature of the instruction provided by LeaderTreks staff during the various trips, and regarding the training and qualifications of the LeaderTreks staff that accompany such trips, and whom LeaderTreks says provided religious instruction. For example, in ETTA, the curriculum and lesson plans that EETA distributed were drawn up by professors at the bible colleges that were ETTA's incorporators, and those lesson plans and curriculum were then edited by a group of professors drawn from those colleges. ETTA's officers, moreover, were deeply involved in religious teaching. But there is no evidence here that Franklin had deep experience in religious education, let alone every one of LeaderTreks' staff that accompanied those taking part in its field and/or wilderness trips.

At hearing, LeaderTreks challenged the Department's characterization of it as a bookseller to and travel agent for religious-minded customers. Tr. p. 48. The documents that LeaderTreks offered at hearing were certainly religious in nature, but the totality of the evidence of record is also consistent with the possibility that what LeaderTreks staff actually did during the trips was to act primarily as tour guides or trail leaders for those on the trip, and also to provide the booklets to the attendees to review on their own. Franklin testified that LeaderTreks staff provides religious instruction and training to attendees that take part in trips that its staff lead, yet this record contains no specific description of the nature of the instruction provided during those trips, or of the nature of

the educational or other background of the persons claimed to be providing such training and instruction.

In sum, LeaderTreks is not formally associated with any church, nor are its incorporators established churches or exclusively religious organizations. While LeaderTreks has provided pecuniary and other support to missionaries during 2004, that support is to missionaries that are organizationally independent of LeaderTreks, and that missionary work is not the work of LeaderTreks itself. Applicant Ex. 13, p. 7. LeaderTreks has provided services to churches and church groups, including leading members of such groups on wilderness, field and other trips. Applicant Exs. 8-9, 12-13. Documentary evidence establishes that LeaderTreks publishes and provides religious materials to those attending the trips that it plans, organizes and leads. Applicant Exs. 9, 12.

When reviewing the agency's decision in Cook Communications, the court noted approvingly the ALJ's statement that "under more recent case law, the publication and distribution of religious materials may be either (1) primarily religious with incidental commercial aspects, and thus within section 15-40 of the Code; or (2) primarily commercial with religious overtones, and thus outside section 15-40." Cook Communications, 345 Ill. App. 3d at 758, 803 N.E.2d at 526. After reviewing this record, however, I am unable to conclude into which of those two categories LeaderTreks falls. While it certainly appears clear that LeaderTreks distributes religious materials during trips it is engaged in the business of leading, I am unable to conclude that LeaderTreks is engaged primarily in providing religious instruction and/or training.

When considering whether property is entitled to exemption, it is important to remember that all property is presumed to be subject to taxation. American National Bank and Trust Co. v. Illinois Department of Revenue, 242 Ill. App. 3d 716, 722, 611 N.E.2d 32, 36 (2d Dist. 1983). Statutes granting exemptions are construed strictly in favor of taxation (*id.*), and that the party claiming the exemption has the burden of proving that the exemption applies, by clear and convincing evidence. Chicago Patrolmen's Assoc. v. Department of Revenue, 171 Ill. 2d 263, 271, 664 N.E.2d 52, 56 (1996); Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430, 434, 507 N.E.2d 141, 144 (1st Dist. 1987). Because I am unable to conclude that LeaderTreks' publication and distribution of religious materials is primarily religious with incidental commercial aspects, and thus within section 15-40 of the Code, I cannot recommend that its exemption application be granted.

Conclusion:

I conclude that LeaderTreks has not satisfied its burden to show that it was organized and operated exclusively for religious purposes. Therefore, I recommend that the Director finalize the Department's tentative denial of LeaderTreks's application for a property tax exemption, and that the property remain taxable for all of 2005.

Date: 8/22/2006

John E. White
Administrative Law Judge